

SERVICE DATE – AUGUST 6, 2014

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 290 (Sub-No. 360X)

YADKIN RAILROAD COMPANY—ABANDONMENT EXEMPTION—IN
STANLY COUNTY, N.C.

Decided: August 5, 2014

Yadkin Railroad Company (YRC)¹ filed a verified notice of exemption under 49 CFR pt. 1152 subpart F—Exempt Abandonments to abandon a 4.14-mile line of railroad between milepost N 27.50 in North Albemarle and the end of the line at milepost N 31.64 in Albemarle, Stanly County, N.C.² Notice of the exemption was served and published in the Federal Register on July 8, 2014 (79 Fed. Reg. 38,668). The exemption is scheduled to become effective on August 7, 2014.

The Board's Office of Environmental Analysis (OEA) served an environmental assessment (EA) on July 11, 2014, recommending that six environmental conditions be imposed on any decision granting abandonment authority. In the EA, OEA states that the North Carolina Wildlife Resources Commission (NCWRC) submitted comments stating that there are records indicating the presence of the Carolina darter (Etheostoma collis) in Little Long Creek, one of the streams where bridge removal would occur.³ NCWRC notes that the Carolina darter is a federal species of concern and a state species of special concern. NCWRC recommends that YRC implement the following mitigation measures in order to minimize impacts to aquatic and terrestrial wildlife resources: (1) adopt measures to avoid or minimize impacts to streams and wetlands during the removal of two bridges; (2) consider replanting the riparian areas at the stream crossings with native trees and shrubs following bridge removal; (3) install sediment and erosion control measures prior to any land clearing and construction,

¹ YRC is a wholly owned subsidiary of Norfolk Southern Railway Company.

² The Line was the subject of a 2006 abandonment proceeding (2006 Proceeding) invoked under the class exemption procedures for rail lines that have been out of service for at least two years. See Yadkin R.R.—Aban. Exemption—in Stanly Cnty., N.C., AB 290 (Sub-No. 281X) (STB served Nov. 14, 2006). YRC states that the exemption it invoked in the 2006 Proceeding has since lapsed. Therefore, Yadkin has invoked the abandonment class exemption procedures anew here.

³ In its verified notice of exemption, YRC notes that no salvage activity is contemplated in connection with the proposed abandonment with the exception of the potential removal of two bridges.

and (4) maintain and routinely inspect these measures. NCWRC also states that Clean Water Act Section 401 permits and Section 404 permits (33 U.S.C. §§ 1341 and 1344, respectively) would be required for any impacts to jurisdictional streams or wetlands.

OEA also states that the North Carolina Department of Environment and Natural Resources (NCDENR), Division of Water Quality (DWQ) submitted comments in the 2006 Proceeding stating that the proposed abandonment would cause minimal land disturbance and that state erosion and sedimentation control requirements may apply to the proposed abandonment. DWQ recommended in 2006 that YRC consult with the North Carolina Department of Environment and Natural Resources, Division of Land Resources (DLR) to assure that the proposed abandonment would be in compliance with erosion and sedimentation requirements. DWQ also commented that the National Pollutant Discharge Elimination System (NPDES) permits under Section 402 of the Clean Water Act (33 U.S.C. § 1342) would be required for any land disturbance greater than one acre and recommended that YRC consult with the NCDENR Mooresville Regional Office regarding impacts to surface waters or wetlands related to the removal of two bridges.

OEA further states in the EA that the United State Environmental Protection Agency (USEPA) submitted comments in the 2006 Proceeding stating that, based on the information provided by YRC, the proposed abandonment would not be subject to NPDES permitting requirements. USEPA noted that NCDENR had been authorized by USEPA to implement the NPDES program and recommended that YRC consult with NCDENR in making a determination regarding the need for NPDES permits under Section 402 of the Clean Water Act.

In the 2006 Proceeding, the Board imposed conditions requiring that YLR, prior to beginning any salvage activities, consult with (1) DLR regarding applicable erosion and sedimentation control requirements; (2) DWQ regarding applicable NPDES requirements; and (3) NCDENR Mooresville Regional Office regarding potential impacts to surface waters or wetlands from the proposed bridge removal activities and applicable requirements, and any other applicable requirements. To address the concerns and comments of NCWRC, DWQ, and USEPA, OEA recommends that those conditions be imposed again here. In addition, OEA recommends that YRC be required to consult with NCWRC prior to beginning any bridge removal activities regarding voluntary activities to minimize potential impacts to aquatic and terrestrial wildlife resources and suggests that YRC report back to OEA regarding any consultations with NCWRC, DWQ, DLR, and the NCDENR Mooresville Regional Office.

OEA also notes that the Division of Waste Management (DWM), Solid Waste Section submitted comments stating that the proposed abandonment would not have an adverse impact on the surrounding community from a solid waste perspective, but DWM recommends that: (1) YRC and its contractors make every feasible effort to minimize the generation of waste during the bridge removal process, recycle materials for which viable markets exist, and use recycled products and materials in the implementation of the project, where feasible;

(2) YRC dispose of any waste generated by the project that cannot be beneficially reused or recycled at a permitted solid waste management facility; and (3) YRC require its contractors to provide proof of proper disposal for all waste generated during the project in the form of disposal tickets. OEA recommends that YRC be required to consult with DWM regarding the management of waste resulting from salvage activity and to comply with all applicable requirements.

Finally, OEA in the EA also notes that the National Geodetic Survey (NGS) submitted comments in the 2006 Proceeding identifying eight station markers located in the area of the proposed abandonment. Therefore, OEA recommends that YRC be required to notify the NGS at least 90 days prior to beginning salvage activities that may disturb or destroy geodetic station markers identified by NGS to plan for the possible relocation of the geodetic station markers.

No comments to the EA were received by the July 28, 2014 due date. Accordingly, the conditions recommended by OEA in the EA will be imposed.

Based on OEA's recommendation, the proposed abandonment, if implemented as conditioned, will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the notice served and published in the Federal Register on July 8, 2014, exempting the abandonment of the line described above is subject to the conditions that YRC shall: (1) prior to beginning any salvage activities, consult with DLR regarding applicable erosion and sedimentation control requirements; (2) prior to beginning any salvage activities, consult with DWQ regarding applicable NPDES requirements; (3) prior to beginning any salvage activities, consult with NCDENR Mooresville Regional Office regarding potential impacts to surface waters or wetlands from the proposed bridge removal activities and applicable requirements, and any other applicable requirements; (4) prior to beginning any bridge removal activities, consult with NCWRC regarding voluntary actions to minimize potential impacts to aquatic and terrestrial wildlife resources; (5) consult with DWM regarding the disposal of waste generated during salvage activities and comply with all applicable requirements; and (6) notify the NGS at least 90 days prior to beginning salvage activities that may disturb or destroy geodetic station markers identified by NGS in order to plan for the possible relocation of the geodetic station markers.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.